

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

JASON C. MCCULLOUGH,

Plaintiff/Counter-Defendant,

vs.

CITIBANK, N.A.,

Defendant/Counter-Claimant.

**4:18CV3112**

**MEMORANDUM AND ORDER**

On March 7, 2019, the Court entered a Final Progression Order setting forth case progression deadlines, including deadlines to complete written discovery. (Filing No. 12). The record reflects that Plaintiff took no action to prosecute his case, so on August 27, 2019, the Court entered an Order scheduling a telephone conference for September 12, 2019, to discuss the status of the case. Plaintiff was mailed a copy of the Order. See Filing No. 14. Plaintiff did not appear for the telephone conference or otherwise notify the Court that he would be unable to appear. The Court entered another Order rescheduling the telephone conference for September 27, 2019, and warned Plaintiff that “further failure to appear at scheduled telephone hearings or comply with court orders will result in appropriate sanctions, including dismissal of his claims.” (Filing No. 15). Plaintiff again did not appear for the telephone conference or notify the Court that he would be unable to appear. Plaintiff has not prosecuted his case and has repeatedly failed to comply with this court’s orders, despite being warned that noncompliance will result in dismissal of his claims. Accordingly,

**IT IS ORDERED:**

1. Plaintiff’s Complaint is dismissed without prejudice for failure to prosecute this matter diligently and for failure to comply with this court’s orders;
2. Defendant’s oral motion to dismiss its Counterclaim without prejudice is granted; and
3. Judgment shall be entered by separate document.

Dated this 27<sup>th</sup> day of September, 2019.

BY THE COURT:

s/ Michael D. Nelson  
United States Magistrate Judge